



#### RECRUITMENT

This guide is intended primarily to help employers when they interview and hire staff — whether they are choosing a new employee or promoting one from within the organization. Even before the interview, employers can take steps to ensure that they have reached the widest pool of qualified applicants.

- Remember that the application form is the employer's calling card. Any question that appears on the application form which is unrelated to the job may appear discriminatory and dissuade a good prospective employee from applying.
- Advertising in newspapers or magazines whose primary readers are women, aboriginal peoples, members of visible minority groups, people with disabilities, or gays and lesbians, for example, also communicates a clear message that qualified individuals from traditionally disadvantaged groups are welcome in your organization and will be treated with respect.

#### THE INTERVIEW

An employment interview is conducted to learn more about the suitability of people under consideration for a particular job. However, sometimes the information sought during interviews is not relevant to the job being filled and may let discriminatory elements creep into the selection process.

For example:

- an applicant's place of birth seldom has anything to do with ability
- height and weight requirements are not always accurate measures of physical strength and may act to screen out women or some racial or ethnic groups that tend to be smaller in stature

A skilled interviewer can properly assess a candidate without drawing out a lot of unnecessary information. This guide identifies some of the

common pitfalls in interviewing and suggests useful alternatives. Although no employer can anticipate every possible interview situation, he or she should be sensitive to those kinds of situations that can lead to a human rights complaint.

#### THE CANADIAN HUMAN RIGHTS ACT

The Canadian Human Rights Act entitles all individuals to equal employment opportunities without regard to: race or colour, national/ethnic origin, religion, age, family/marital status, sex, (including pregnancy or childbirth), pardoned conviction, disability (either physical or mental or as the result of dependence on alcohol or drugs), and sexual orientation.

Section 8 of the Act defines it this way:

- "It is a discriminatory practice*  
*a) to use or circulate any form of application for employment, or*  
*b) in connection with employment or prospective employment, to publish any advertisement, or make any written or oral inquiry*  
*that expresses or implies any limitation, specification or preference based on a prohibited ground of discrimination."*

The Act covers employment in federal jurisdiction.

Included are the various federal government departments and agencies, Crown corporations, airlines, banks, railways, interprovincial pipelines, radio, television and telephone companies, and transport companies that do business in more than one province.

#### BONA FIDE OCCUPATIONAL REQUIREMENTS

An exception to the Act is allowed when the abilities necessary to perform the essential job tasks are related to one or more of the prohibited grounds of discrimination. A particular skill or qualification can be specified if the preference is based on a bona fide occupational requirement.

For example, a job may require a certain level of colour vision in order to be done safely and efficiently, thereby precluding from consideration a

person who does not meet this level. However, employers should try to find alternative approaches to the job so that such restrictive requirements can be eliminated.

Occupational requirements should focus on a person's actual ability — not assumptions based on a group characteristic. The Canadian Human Rights Commission has detailed materials available to explain the application of bona fide occupational requirements if you think that jobs in your organization are affected.

#### SPECIAL PROGRAMS AND EMPLOYMENT EQUITY

The Canadian Human Rights Act allows for special programs designed to improve opportunities for groups that have been traditionally disadvantaged because of race, ethnic origin, religion, age, sex, marital and family status, and disability. As well, the Canadian Human Rights Commission monitors employers' annual reports on representation of designated groups required under the Employment Equity Act, and takes action when these reports indicate barriers may be excluding some groups. The Employment Equity Act is designed to improve job opportunities for four specific groups — women, aboriginal peoples, members of visible minorities, and persons with disabilities. The ability to use special programs to achieve equity is an integral part of this process.

Commission policy permits employers to collect the data they require to plan and support special programs, even though the information collected may touch upon one of the prohibited grounds. However, in the event of a complaint, the employer must be able to show that such collected data has not been used to discriminate, either in the hiring process or later when deciding promotion opportunities.

For information on how to ensure good special measures are a part of your equal opportunity planning, please contact the Employment and Pay Equity Branch of the Canadian Human Rights Commission. Addresses and telephone numbers are at the back of this guide.

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# CANADIAN HUMAN RIGHTS COMMISSION

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©Minister of Supply and Services Canada 1995  
Cat. No. HR21-43/1993  
ISBN 0-662-59731-1

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## A GUIDE TO SCREENING AND SELECTION IN EMPLOYMENT

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SUBJECT	AVOID ASKING	PREFERRED	COMMENT
NAME	about name change; whether it was changed by court order, marriage, or other reason  maiden name		ask after selection if needed to check on previously held jobs or educational credentials
ADDRESS	for addresses outside Canada	ask place and duration of current or recent address	
AGE	for birth certificates, baptismal records, or about age in general	ask applicants if they are eligible to work under Canadian laws regarding age restrictions	if precise age required for benefits plans or other legitimate purposes, it can be determined after selection
SEX	males or females to fill in different applications  about pregnancy, child bearing plans, or child care arrangements	can ask applicant if the attendance requirements can be met	during the interview or after selection, the applicant, for purposes of courtesy, may be asked which of Mr/Mrs/Miss Ms is preferred
MARITAL STATUS	whether applicant is single, married, divorced, engaged, separated, widowed, or living common-law  whether an applicant's spouse is subject to transfer  about spouse's employment	if transfer or travel is part of the job, the applicant can be asked if he or she can meet these requirements  ask whether there are any circumstances that might prevent completion of a minimum service commitment	information on dependents can be determined after selection if necessary
FAMILY STATUS	number of children or dependents  about child care arrangements	if the applicant would be able to work the required hours and, where applicable, overtime	contacts for emergencies and/or details on dependents can be determined after selection
NATIONAL OR ETHNIC ORIGIN	about birth-place, nationality of ancestors, spouse, or other relatives  whether born in Canada  for proof of citizenship	since those who are entitled to work in Canada must be citizens, permanent residents, or holders of valid work permits, applicants can be asked if they are legally entitled to work in Canada	documentation of eligibility to work (papers, visas, etc.) can be requested after selection
MILITARY SERVICE	about military service in other countries	inquiry about Canadian military service where employment preference is given to veterans by law	(for example, "black woman, 45ish" or "South Asian man").
LANGUAGE	mother tongue  where language skills obtained	ask if applicant understands, reads, writes, or speaks languages required for the job	testing or scoring applicants for language proficiency is not permitted unless job-related
RACE OR COLOUR	any inquiry into race or colour, including colour of eyes, skin, or hair		
PHOTOGRAPHS	for photo to be attached to applications or sent to interviewer before interview		photos for security passes or company files can be taken after selection
RELIGION	about religious affiliation, church membership, frequency of church attendance  if applicant will work a specific religious holiday  for references from clergy or religious leader	explain the required work shift, asking if such a schedule poses problems for the applicant	reasonable accommodation of an employee's religious beliefs is the employer's duty
HEIGHT AND WEIGHT			no inquiry unless there is evidence they are genuine occupational requirements
DISABILITY	for listing of all disabilities, limitations or health problems  whether applicant drinks or uses drugs  whether applicant has ever received psychiatric care or been hospitalized for emotional problems  whether applicant has received worker's compensation	ask if applicant has any condition that could affect ability to do the job  ask if the applicant has any condition which should be considered in selection	a disability is only relevant to job ability if: <ul style="list-style-type: none"><li>- threatens the safety or property of others</li><li>- prevents the applicant from safe and adequate job performance even when reasonable efforts are made to accommodate the disability</li></ul>
MEDICAL INFORMATION	if currently under physician's care  name of family doctor  if receiving counselling or therapy		medical exams should be conducted after selection and only if an employee's condition is related to job duties  offers of employment can be made conditional on successful completion of a medical
PARDONED CONVICTION	whether an applicant has ever been convicted  if an applicant has ever been arrested  whether an applicant has a criminal record	if bonding is a job requirement ask if applicant is eligible	inquiries about criminal record/convictions are discouraged unless related to job duties
SEXUAL ORIENTATION	any inquiry about the applicant's sexual orientation		contacts for emergencies and/or details on dependents can be determined after selection
REFERENCES			the same restrictions that apply to questions asked of applicants apply when asking for employment references



## MAKING INTERVIEW NOTES

Usually, interviewers will have copies of résumés or applications available at the interview for easy reference or to use as the basis of interview questions. When many applicants are being interviewed, interviewers often make notes on the résumés to help differentiate candidates. Even though these notes may be solely for the use of the interviewer, they must not identify or differentiate candidates according to the prohibited grounds (for example, "black woman, 45ish" or "South Asian man").



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